



NSW Legislative Assembly Hansard

First State Superannuation Legislation Amendment (Conversion) Bill

Extract from NSW Legislative Assembly Hansard and Papers Tuesday 8 November 2005.

Second Reading

Mr PAUL McLEAY (Heathcote—Parliamentary Secretary) [8.28 p.m.], on behalf of Mr John Watkins: I move:

That this bill be now read a second time.

First State Superannuation [FSS] is an accumulation superannuation scheme. All New South Wales public sector employees recruited since 1992 are covered by the First State Superannuation Act 1992. However, they may choose to have their compulsory employer contributions paid into a complying superannuation scheme other than FSS. First State Superannuation has around 440,000 member accounts and about \$9 billion under administration. Currently, membership of FSS is restricted by a heads-of-government agreement with the Commonwealth to New South Wales public sector employees. This means that employees who move from public to private sector employment, such as nurses, are forced to start with a new superannuation scheme.

It is interesting to note that each year there are approximately 30,000 New South Wales public sector employees who exit the public service, with the majority joining the private sector. Because of the current restrictions on FSS membership, these former public sector employees, many of whom are teachers and nurses, are unable to continue to contribute to FSS. In fact, research undertaken in recent years by the trustee of FSS has shown that almost 70 per cent of these former public sector employees would continue to contribute to FSS if they were allowed to do so. The trustee proposes to make membership of the fund truly portable while continuing to be a not-for-profit scheme.

By converting the FSS from a State-regulated "exempt public sector scheme" to a scheme regulated by Commonwealth law, the trustee will have the option to offer continued membership to former public sector employees and become a "public offer fund" if it chooses. Of course, conversion of the fund is subject to approval by the Commonwealth licensing and regulatory authorities. The process for the trustee obtaining this approval is well in train. Subject to the passage of this bill, conversion of the FSS Trustee Corporation [FTC] is anticipated to occur in early 2006. The changes envisaged by this bill would allow FSS to remain competitive in the new environment of expanded fund choice.

There are three parts to the bill. The first enables the FTC to convert FSS to a Commonwealth-regulated fund. The second provides for retention of relevant provisions of the First State Superannuation Act 1992 to prescribe the circumstances under which compulsory employer superannuation contributions are to be paid to New South Wales public sector employees. The third deals with consequential amendments to various Acts, mainly by removing references to FSS. The bill amends the Superannuation Administration Act 1996 to enable the FTC to become a proprietary company limited by shares under the Commonwealth Corporations Act 2001. This is the first step in the conversion process.

The bill also amends the First State Superannuation Act 1992 and the Superannuation Administration Act 1996 so that FSS will cease being a scheme regulated by State legislation and become a Commonwealth-regulated scheme. It will enable the FTC to amend the First State Superannuation trust deed and rules so that FSS is eligible to become a complying Commonwealth-regulated scheme. The proposed changes do not alter the security of members' investments. There has never been a "government guarantee" implied or otherwise for FSS. FSS members will enjoy the same protections as other members of the community who are in Commonwealth-regulated accumulation schemes. That is, FSS and the FTC will be governed by the Commonwealth Superannuation Industry Supervision Act and regulations, and will be under the prudential control of the Australian Prudential Regulatory Authority [APRA].

The FTC board will continue to be comprised of employer and employee representatives, as it is now. Any alteration to the constitution relating to the number, manner of appointment or manner of removal of directors of the company during the three-year transition period following conversion requires the Minister's consent. In addition, the New South Wales Auditor-General will be the auditor for FSS and the trustee for the first three years. The FTC will be able to choose the Auditor-General as auditor of the fund and trustee beyond that three-year period should it wish to do so. The bill enables the Government to ask the Auditor-General to audit the FTC and FSS on its behalf to assist it with deciding whether FSS should continue to be endorsed as the default fund for public sector employees.

One thing that will change is that members will gain access to the Superannuation Complaints Tribunal. The trust deed and rules also make provision for continued right of access to the New South Wales Industrial Relations Commission to dispute trustee decisions. Other special arrangements, such as certain aspects of the firefighters' death and disability provisions, will continue. The conversion of FSS has been the subject of

discussion for several years between the trustee, Treasury, the Public Employment Office in the Premier's Department and Unions New South Wales, all of whom endorse the change.

The second part of the bill makes provision for what will become the main purpose of the amended First State Superannuation Act 1992. The Act will clarify the circumstances under which New South Wales public sector employers must make contributions of 9 per cent of wages or salary. These circumstances are not being changed and will continue to apply regardless of whether employees choose to receive their compulsory employer contributions in FSS or another complying fund. The third part of the bill makes consequential amendments. These include the repeal of the Superannuation Administration (Savings and Transitional) Regulation 1997 and removal of references to First State Superannuation or the FSS Trustee Corporation from a number of Acts. To reiterate, FSS will continue as a not-for-profit scheme. There is no adverse change for members. Conversion means the scheme will be more portable, giving it the potential to retain members, which in turn will help to keep administration fees low. I commend the bill to the House.